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- 1 Q. So sometime in between January of 2001 and June  
2 of 2001, you asked Mr. Herrera if he might have  
3 a job for you at Laboratorios Belmac?
- 4 A. But not only to Mr. Herrera, to all the  
5 companies that I had some sort of relationship  
6 with. I made the comment or informed them that  
7 I was going to be fired and that I would prefer  
8 to be incorporated within some company for the  
9 month of September, during the month of  
10 September.
- 11 Q. And you started consulting with Laboratorios  
12 Belmac around September of 2001?
- 13 A. Yes.
- 14 Q. And you've been very good with dates in the  
15 past. Do you know the exact date?
- 16 A. I called Mr. Herrera on the 1st of September,  
17 and I asked him if he wanted to go and share a  
18 beer with me so we could talk. And on that same  
19 day, I did drop by Laboratorios Belmac to have a  
20 beer among friends. And once again, I asked him  
21 if he had a job opening for me.
- 22 Q. When you say a beer among friends, was it just  
23 you and Mr. Herrera or others?
- 24 A. Only Mr. Herrera and myself.

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- 1 Q. Was this in Madrid near the offices of  
2 Laboratorios Belmac?
- 3 A. Yes. I was the one looking for a job.
- 4 Q. He did not come to your house?
- 5 A. No.
- 6 Q. What -- can you tell me about the discussion  
7 that you had on September 1st?
- 8 MR. STEWART: Objection, objection.  
9 Calls for a narrative. Are you asking him for  
10 what was said during that conversation?
- 11 MR. BOSTWICK: Yes.
- 12 Q. I'm asking for what was said during the  
13 conversation with Mr. Herrera on September 1st,  
14 2001.
- 15 A. This, I was aware of. I just was not aware of  
16 what my attorney had said, but I will continue.  
17 Once again, I asked him if he had a job opening  
18 for me, which he responded to me that no, that  
19 at that moment, he didn't have a space or a  
20 place to place me at the company. You know, I  
21 expressed to him that with my buyers experience  
22 and recognizing that they had a person that --  
23 an older person as the buyer of materials --
- 24 MR. STEWART: Excipients?

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- 1 A. Recipients of --
- 2 MR. BOSTWICK: Excipients is the same  
3 in English.
- 4 A. -- excipients of manufacturing and raw material.  
5 You know, I proposed to him to do a study of all  
6 the products that his company purchased, you  
7 know, get to know who were the current  
8 providers, you know, to get to know which other  
9 providers were producing the same excipients,  
10 you know, compare prices and negotiate with  
11 these distributors to be able to obtain a lower  
12 price or cost. You know, I told him that I  
13 could be able to save, you know, probably even  
14 up to 20 percent, and he laughed. You know, he  
15 said, "Give it a try." So he allowed me to  
16 enter the company as a consultant, but not with  
17 a working contract, not with functions, no  
18 functions.
- 19 MR. STEWART: No what?
- 20 THE TRANSLATOR: Responsibilities.
- 21 A. So from there, I began to perform my work. And  
22 once again, I had contact with the  
23 pharmaceutical industry.
- 24 Q. Did you get paid for this consulting work

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- 1 beginning in September of 2001?
- 2 A. Of course. Nobody works for free.
- 3 Q. Did you work by the hour or at a fixed salary?
- 4 A. My proposal was to have a fixed salary due to  
5 the fact that I had three children and it was  
6 more beneficial to me to have a monthly salary,  
7 although he proposed to me a commission.
- 8 Q. What did you end up settling on?
- 9 A. A fixed salary monthly.
- 10 Q. What did you -- what was the fixed monthly  
11 salary?
- 12 A. 2,000 euros.
- 13 Q. Did -- how long did you work under this  
14 arrangement, a fixed salary of 2,000 euros with  
15 the responsibilities you've just described?
- 16 A. It was actually the 1st of April, 2002, but the  
17 paperwork took some time. So you can say that  
18 it was the 7th of April, 2002.
- 19 Q. And how did your pay and responsibilities change  
20 in April of 2002, if at all?
- 21 A. My responsibilities did change. Through that  
22 period of time, my responsibilities had changed,  
23 and that was why he gave me a contract, a  
24 working contract.

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1 MR. BOSTWICK: Okay. I think we  
2 better take a break because the tape needs to be  
3 changed.

4 MR. STEWART: About five minutes or  
5 so?

6 THE VIDEOGRAPHER: The time is  
7 3:32 p.m. on July 27th, 2006. This is the end  
8 of Tape Number 3.

9 (Recess)

10 THE VIDEOGRAPHER: The time is  
11 3:41 p.m. on July 27th, 2006. This is Tape  
12 Number 4.

13 Q. Mr. Alvarez, going to when you left Ethypharm in  
14 June 30th, 2001, did you keep any documents or  
15 files from Ethypharm when you left Ethypharm  
16 Spain?

17 A. Voluntarily, no.

18 Q. Involuntarily?

19 A. Yes.

20 Q. What do you mean involuntarily?

21 A. Because I kept documents at my computer at home  
22 and within the hard drive of the computer.

23 Q. What types of documents did you keep?

24 A. I don't know.

1 company, and it had memory. Honestly, I didn't  
2 bother to erase it. When I call Mr. Herrera, I  
3 just look in my mobile memory, I had his cell  
4 phone, and I just called him.

5 Q. We received some documents that you had from  
6 Roseline Joannesse from counsel as part of this  
7 lawsuit. Did you keep any other files or  
8 documents from Ethypharm?

9 MR. STEWART: Objection, assumes facts  
10 not in evidence. Since I was the author of the  
11 letter, I recall very clearly that there was no  
12 attribution with respect to the Roseline  
13 Joannesse documents with respect to Mr. Alvarez.

14 A. You know, the truth was that I had not seen  
15 those documents for a very long period of time  
16 until the time that my attorneys show them to me  
17 in Madrid, and they asked me if I had them --

18 MR. STEWART: Objection. I will  
19 instruct this witness not to respond to -- not  
20 to testify with respect to conversations that he  
21 has had with the attorneys. Wait for the  
22 question. Wait for the next question.

23 Q. And that's correct. I'm not asking you to  
24 provide information to me about your

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1 Q. Do you know how many?

2 A. No, because then later on when I was cleaning,  
3 you know, my computer, I destroyed them.

4 Q. About what date did you destroy those documents?

5 A. I believe I probably destroyed them the year  
6 2002 approximately.

7 Q. Did you speak with anybody before making the  
8 decision to destroy the documents?

9 A. Of destroying them? No, no, it was my own  
10 decision. I didn't need that stuff for nothing  
11 in particular. You know, I was cleaning my  
12 computer.

13 Q. Did you think of returning those documents to  
14 Ethypharm?

15 A. No.

16 Q. Did you keep phone numbers and contacts of  
17 Ethypharm clients?

18 A. I don't know if I kept them or not, but the  
19 pharmaceutical industry in Europe is a very  
20 small group, and, you know, at the Web pages or  
21 Web sites, you know, in the Internet, you can  
22 find phone numbers, you can find information.  
23 As meaning similar to a small town, village.

24 Also, I kept a mobile phone from the

1 conversations with Bentley or Belmac's lawyers.  
2 Okay? My question is, did you keep other  
3 documents or files from Ethypharm that were  
4 produced in this litigation?

5 A. With my limited knowledge of computer systems, I  
6 believe that I destroyed everything that I had  
7 of Ethypharm.

8 Q. And you believe you did that sometime in 2002?

9 A. So let me clear something. I had a computer at  
10 home, and I have a laptop in my office.  
11 Sometimes I work at stuff at the office.  
12 Sometimes I work at stuff at home, but my  
13 computer at home, I never cleaned it. You know,  
14 when my children got older, I had to save my own  
15 information because the new toy for them was my  
16 computer. You know, so then I transfer, rescue  
17 all my documents to my only computer at the time  
18 was the one I had at Belmac. So at that point,  
19 everything was together at one computer. One of  
20 those times I was cleaning up, I discovered  
21 these documents. So, as you know, you have the  
22 garbage icon or facilitator, and you transfer  
23 documents from one garbage to another garbage  
24 and so on until a computer tech person can come

32 (Pages 122 to 125)

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1 and do whatever, you know, needs to be done, but  
 2 my knowledge about computer systems is very  
 3 limited.  
 4 Q. When did you do this computer cleanup in 2002?  
 5 A. I don't know.  
 6 Q. Do you know if it was early or late in 2002?  
 7 A. You know, it's something that you just do. I  
 8 found it one day, and I just deleted it, you  
 9 know; and that's it. You know, sometimes when  
 10 I'm doing a cleaning, I find documents prior  
 11 to -- from other cleanings. So the issue is I'm  
 12 not so aware how to work these computer systems.  
 13 Q. Did anyone review that computer for production  
 14 of documents in this case?  
 15 A. Everything, you know, computer, offices,  
 16 cabinets.  
 17 Q. Including your home computer?  
 18 A. No, not the one at home.  
 19 Q. Is the computer at home the computer you had the  
 20 Ethypharm files on? Is that my understanding?  
 21 A. You know, at one point, I transferred, but let  
 22 me explain this better. About four or five  
 23 years ago, the computer that I had at home was  
 24 an old computer. So when I transferred that old

1 A. Yes.  
 2 Q. What computer?  
 3 A. I asked Adolfo Herrera to lend me a laptop  
 4 because I did not have one.  
 5 Q. And that laptop has been reviewed for purposes  
 6 of this case?  
 7 A. That laptop is actually in the garbage at this  
 8 point, but that hard drive passed from one  
 9 computer to another computer to another computer  
 10 to the point that it is at my computer today the  
 11 one that I have at Belmac; and that computer was  
 12 revised (sic) for the purpose of these  
 13 proceedings. That's what they promised, you  
 14 know, when they were making the changes, the  
 15 tech people, the computer techs.  
 16 Q. Let me show you a document.  
 17 (Letter to Mr. De Basilio from  
 18 Mr. Herrera, dated November 14, 2001 was  
 19 marked Exhibit Number 15 for  
 20 identification.)  
 21 Q. Mr. Alvarez, do you recognize this letter to be  
 22 a letter giving notice of termination to  
 23 Ethypharm from Laboratorios Belmac?  
 24 A. During which period of time should I be

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1 computer to my kids, that was when I cleaned up  
 2 and rescue all my files, and I gave the computer  
 3 to the kids.  
 4 At home, I do have now three computers  
 5 for my wife and my children, but not for work  
 6 for myself. Right now, I only have my computer  
 7 of Belmac. And also that computer that we're  
 8 speaking about, you know, you could say that is  
 9 in bad condition at this point because, you  
 10 know, the kids, you know, have, you know, broken  
 11 it apart and put it together again and that kind  
 12 of thing, so...  
 13 Q. From September 2001 to April 2002 when you were  
 14 consulting with Laboratorios Belmac, did you  
 15 work in the offices of Laboratorios Belmac?  
 16 A. You know, during that period of time, it's not  
 17 that I had an office or a position at Belmac.  
 18 You know, I used to visit the offices at Monte  
 19 Arragon. I used to go to the manufacturing  
 20 plant at Zaragoza. I will return to the labs.  
 21 I also went to the new offices at San Sebastian  
 22 de Los Reyes. So, you know, I was working.  
 23 Q. Did you use a computer during that period of  
 24 time?

1 recognizing this document?  
 2 Q. Do you recognize it today as what I've just  
 3 described?  
 4 A. I recognize the document today as we've been  
 5 working on this issue, but I also recognize the  
 6 document from the times that I've been  
 7 organizing documents within the computer system.  
 8 Q. Okay. Did you -- this document is dated  
 9 November 14th, 2001, correct?  
 10 A. Yes.  
 11 Q. Did you see this document around November 14th,  
 12 2001 while you were consulting at Laboratorios  
 13 Belmac?  
 14 A. No.  
 15 Q. Did you know that Laboratorios Belmac was going  
 16 to terminate its relationship with Ethypharm  
 17 around November of 2001?  
 18 A. Yes.  
 19 Q. How did you know that?  
 20 A. Because it was commented to me of one of those  
 21 times I visited the office. Mr. Herrera  
 22 commented it to me.  
 23 Q. Tell me about what Mr. Herrera told you.  
 24 A. That they were not going to renew the contracts,

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1 supply contracts with Ethypharm.  
 2 Q. Did he -- do you recall when Mr. Herrera told  
 3 you this, whether it was in September, October,  
 4 November or before?  
 5 A. No, but most likely it was at the last quarter  
 6 of 2001.  
 7 Q. It was before the November 14th letter, do you  
 8 think?  
 9 A. Yes, before it ended, I'm pretty sure that he  
 10 made a comment.  
 11 MR. STEWART: Before it ended?  
 12 THE TRANSLATOR: Before the  
 13 termination. Before the termination, he made a  
 14 comment.  
 15 Q. So, in other words, before this termination  
 16 letter we're looking at, Exhibit 15?  
 17 A. He doesn't know -- I don't know exactly what  
 18 date the termination took place. I do know that  
 19 he commented it to me, but I don't know if the  
 20 termination took place the 13th, the 14th, the  
 21 20th, the 8th. I don't know. I know he  
 22 commented it to me.  
 23 Q. What did Mr. Herrera tell you about the reasons  
 24 that Belmac or -- strike that. What did

1 2001, did you contact any of Ethypharm's  
 2 customers?  
 3 MR. STEWART: May I have those dates  
 4 again?  
 5 MR. BOSTWICK: September 1st, 2001 and  
 6 November of 2001.  
 7 MR. STEWART: Thank you.  
 8 A. If I voluntarily called a client of Ethypharm?  
 9 Is that a question?  
 10 Q. I didn't ask voluntarily, but did you call them  
 11 at all?  
 12 A. No.  
 13 Q. Did any Ethypharm client contact you?  
 14 A. No. I run into them or crossed paths at a fair  
 15 which is called CPHI, is a fair of the  
 16 pharmaceutical industry, but I did not contact  
 17 any of the clients with the exception of a  
 18 provider, which is Uquifa.  
 19 Q. Let me first ask you. When is this fair you're  
 20 talking about?  
 21 A. Usually, it's in November. You know, there's  
 22 years that it's in December. There's years that  
 23 it's in November. There's years that it's in  
 24 October. I can tell you where it took place,

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1 Mr. Herrera tell you about the reasons that the  
 2 relationship with Ethypharm was being  
 3 terminated?  
 4 A. He didn't say a thing to me.  
 5 Q. Did you speak with anybody else about this issue  
 6 around the last quarter of 2001?  
 7 A. You know, no. Some other time -- period of  
 8 time, I asked him, "You know, did you end the  
 9 relationships? Was a letter sent of  
 10 termination?" And he said, "Yes, it was sent."  
 11 Q. When Mr. Herrera initially told you that they  
 12 were going to terminate the relationship, were  
 13 you surprised?  
 14 A. No. I smiled.  
 15 Q. Why?  
 16 A. Because I was very angry with Ethypharm and I  
 17 was happy that the relationships had broken.  
 18 Q. Why were you angry with Ethypharm?  
 19 A. Because after so much work that I did, they  
 20 fired me and with no apparent reason, just  
 21 because they were going to end the work that we  
 22 had performed in Spain for such a long period of  
 23 time.  
 24 Q. Between September 1st, 2001 and November of

1 but I cannot tell you the date.  
 2 Q. Where did it take place?  
 3 A. In London.  
 4 Q. In 2001?  
 5 A. Every year, the same fair takes place, but in  
 6 this case, we're talking about the year 2001.  
 7 Q. Did you speak with any of Ethypharm's clients at  
 8 any time between September 1st, 2001 and  
 9 April 1st, 2002?  
 10 A. Yes.  
 11 Q. Which ones?  
 12 A. PharmAlliance.  
 13 Q. When is your best memory of when you spoke with  
 14 PharmAlliance?  
 15 A. November or October 2001 approximately.  
 16 Q. Who did you speak with at PharmAlliance?  
 17 A. Amal Lamari.  
 18 Q. And what did you speak to Ms. Lamari about?  
 19 A. Mr. Herrera called me on the phone, and he told  
 20 me that Ms. Lamari was at the office with him;  
 21 and he invited me to share a meeting with him.  
 22 Q. And you went?  
 23 A. Of course. And she's a very good-looking woman.  
 24 Q. And that's something you recall.

34 (Pages 130 to 133)

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1 MR. STEWART: Just answer the  
2 question.

3 A. We're Latin.

4 Q. What do you recall about this meeting?

5 A. Miss Lamari came to Belmac Labs to inform  
6 Mr. Herrera that she was having problems of  
7 product supply in terms of, you know, late -- in  
8 terms of delays.

9 THE TRANSLATOR: Excuse me.

10 A. And then she told us, because I was already  
11 present during this conversation, that Ethypharm  
12 Labs had offered them supplying with a new  
13 formulation. She communicated to us that she  
14 didn't have any signed contract with Ethypharm  
15 for the omeprazole product and that she had a  
16 dependence with Belmac Labs because her product  
17 Proton, it was registered with the certificate  
18 of free -- free sales certificate of Belmazol.  
19 If she changed formulations, she could lose the  
20 product, and she asked us to supply her.

21 Q. So the conversation with this woman from  
22 PharmAlliance related to omeprazole, correct?  
23 Correct?

24 A. Can you repeat the question, please?

1 Q. Can I -- let me show you this document.

2 (Confidentiality Agreement was marked  
3 Exhibit Number 16 for identification.)

4 Q. Do you recognize Exhibit 16?

5 A. Yes.

6 Q. Was the document signed at the meeting you were  
7 referring to?

8 A. I don't remember. You know, I'll say no, but I  
9 don't remember.

10 Q. What do you recall about this document?

11 A. This is a confidentiality agreement, and I  
12 suppose that it was to supply with some  
13 documentation, you know, from what I can see  
14 here in this case, with omeprazole.

15 Q. Is this agreement consistent with the  
16 discussions you were having with Ms. Lamari?

17 A. No. I don't remember having spoken about  
18 preparing a confidentiality agreement. I do  
19 remember that we said to her that we'll agree to  
20 manufacture for her, that at no time we will  
21 allow for her to lose her product, but always,  
22 you know, among -- between labs, before any  
23 movement is done, there's agreements, you know,  
24 as confidentiality agreements, produced

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1 Q. So the conversation that you and Adolfo Herrera  
2 had with the woman from PharmAlliance around  
3 November of 2001 related to omeprazole, correct?

4 A. Yes.

5 Q. And she indicated that she had a problem with  
6 delay in receiving the omeprazole product?

7 A. With that product and other products, she made  
8 the comment, but in this case, it means -- you  
9 know, relates to this product.

10 Q. This product meaning omeprazole?

11 A. Yes.

12 Q. And that was a delay in receiving it from  
13 Ethypharm?

14 A. That's what she said, but, you know, I would not  
15 be able to tell you because I personally don't  
16 know who was -- where was the delay coming from.

17 Q. And Belmac is the one who's manufacturing  
18 omeprazole for Ethypharm, correct?

19 A. Yes.

20 Q. So was it agreed that Laboratorios Belmac would  
21 provide omeprazole to PharmAlliance at this  
22 meeting?

23 A. Towards a future, yes, but I don't know at what  
24 time it began.

1 documents.

2 You know, after this agreement, then a  
3 contract -- a supply contract is put together.

4 Q. Do you recall if a supply contract was signed  
5 with PharmAlliance?

6 A. From which lab?

7 Q. Laboratorios Belmac.

8 A. Yes.

9 Q. When?

10 A. I don't remember.

11 Q. Is it near this time, November 2001?

12 A. It was with this new formulation that Belmac had  
13 produced themselves. It was a formula that  
14 although it had the same product, it was a  
15 different formula.

16 Q. When was the agreement signed?

17 A. I don't remember. There were various agreements  
18 that were signed, but I just don't remember  
19 when.

20 Q. Do you know when in the context of this  
21 confidentiality agreement?

22 A. I know that there were various documents signed,  
23 but I don't remember exactly what. The thing  
24 was that I met her at that meeting and then I

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1 developed good relationships with her, although  
2 I had known of her by phone from Ethypharm  
3 times. And her labs was kind of young in  
4 business, been four or five years in business,  
5 so she was looking for products. And for that  
6 reason, I just helped her in whatever I could.

7 Q. And on the last page of Exhibit 16, the Amal  
8 Lamari is the woman that you had the meeting  
9 with with Mr. Herrera, correct?

10 A. Yes.

11 Q. Let me show you another document.

12 (Letter to Mr. Herrera from Mr. Gadri,  
13 dated December 6, 2001, and Enclosure  
14 were marked Exhibit Number 17 for  
15 identification.)

16 Q. And I will clarify that this document was  
17 produced in this order to us from the Belmac  
18 files, but the cover letter said that it  
19 encloses a confidentiality agreement, and the  
20 document behind the letter is actually a supply,  
21 marketing, and distribution agreement.

22 My question is, do you recall this  
23 supply, marketing, and distribution agreement?  
24 MR. STEWART: I'm going to object in

1 correctly.

2 Q. Do you want to have the question repeated?

3 A. Yes. Can you repeat the question, please?  
4 (Reporter read back the last question.)

5 A. We in absolute were not trying to sign up any  
6 client of Ethypharm or, you know, request  
7 business from any client of Ethypharm.  
8 Absolutely not. So when you asked if Bentley  
9 knew of something, you know, since we were not  
10 doing it, then I don't know how to answer the  
11 question.

12 Q. If you were not trying to recontract with  
13 Ethypharm employees --

14 THE TRANSLATOR: Employees or clients?

15 MR. BOSTWICK: Clients.

16 Q. -- what are you doing in Exhibit 16 and 17 and  
17 the meeting that you just described?

18 A. Well, Belmac Labs received with open doors the  
19 clients, but they did not go after the clients  
20 because they were having supplying problems.  
21 Miss Lamari was very preoccupied because her  
22 product depended in absolute from the Belmazol  
23 product, and that's why she directed herself to  
24 us. And also, the only contract that she had

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1 that we proceeded with the confidentiality  
2 agreement, Exhibit 16. I heard no question that  
3 tied that agreement in any way to the issue of  
4 agency. I see that Exhibit 17 is a follow-on  
5 to -- appears to be a follow-on to Exhibit 16.  
6 I don't understand the question -- any question  
7 that Mr. Bostwick has asked or is about to ask  
8 that ties that document to the issue of agency.

9 You can answer the question -- this  
10 question.

11 A. You know, from my understanding, the first page  
12 has nothing to do with the second page.

13 Q. Do you know whether the supply, marketing, and  
14 distribution agreement was ever signed?

15 A. Yes, it was signed. I don't know if it was this  
16 model, another model or there was variations to  
17 the contract, but I do know that something was  
18 signed.

19 Q. Do you know whether Bentley Pharmaceuticals in  
20 the United States understood that you and  
21 Mr. Herrera were in the process of recontracting  
22 with Ethypharm customers with respect to  
23 omeprazole?

24 A. I don't believe that I understood the question

1 signed was with Belmac, not with Ethypharm.

2 Q. You testified earlier that PharmAlliance was an  
3 Ethypharm client, correct?

4 A. I did say that they were a client of Ethypharm,  
5 but not that they had a signed contract with  
6 Ethypharm. They were a client with Ethypharm.

7 Q. And isn't it true that Bentley in the U.S.  
8 understood that Laboratorios Belmac, meaning you  
9 and Adolfo Herrera, were recontracting with  
10 Ethypharm customers?

11 MR. STEWART: Objection, no  
12 foundation, and if I understood the question,  
13 it's utterly misleading.

14 A. I don't know what Bentley was thinking. I don't  
15 know if they were informed or not informed of  
16 these operations.

17 Q. Let me show you a document.

18 (Copy of E-mail to Mr. Bolling, et al.  
19 from Mr. Fitzgibbons, dated January 22,  
20 2002, and attached Bentley  
21 Pharmaceuticals Operations Update - 22  
22 January 2002 were marked Exhibit Number  
23 18 for identification.)

24 Q. Have you ever seen Bentley operations updates

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1 before?

2 A. Not before, not after the preparation of the

3 notes. This is the first time in my life that

4 I've seen this document.

5 Q. On Page 2, this document is directed to Bentley

6 Pharmaceuticals' board of directors, and it's a

7 Bentley Pharmaceuticals operation update, dated

8 January 22nd, 2002; and under Spain Activities,

9 letter E, it says, "Ethypharm customers for

10 omeprazole process of recontracting with

11 Laboratorios Belmac." And that's what you and

12 Mr. Herrera are doing in Exhibits 16 and 17 and

13 at the meeting in November with PharmAlliance,

14 correct?

15 MR. STEWART: Objection. That

16 question was asked and was answered by this

17 witness.

18 Q. Isn't that what you're doing?

19 A. What is the title of this document?

20 Q. The Bentley Pharmaceuticals operations update.

21 A. But this is a meeting among the investors. I

22 don't think that the board of directors were

23 well updated. There was no plan to recontract

24 Ethypharm clients.

1 have never seen this document.

2 (Copy of E-mail to Mr. Alvarez from

3 Amal, dated July 18, 2002 was marked

4 Exhibit Number 19 for identification.)

5 Q. Can you explain to me what this document is?

6 A. It's a document. I recognize this document. I

7 have read this document during its time, and I

8 have read this document during the analysis or

9 study for this process. This is a unilateral

10 message that she's letting me know that she had

11 received an e-mail from a gentleman by the name

12 of Lacombe.

13 MR. BOSTWICK: L A C O M B E.

14 A. Yes.

15 Q. And, in other words, this is an e-mail from the

16 woman at PharmAlliance that we've been talking

17 about, Ms. Lamari, correct?

18 A. Yes.

19 Q. And it's dated July 18th, 2002, correct?

20 A. Correct.

21 Q. And you're working for Laboratorios Belmac?

22 A. Yes.

23 Q. And you'd been working for Laboratorios Belmac

24 for some time?

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1 Q. Isn't -- aren't you recontracting with

2 PharmAlliance in November of -- aren't you in

3 the process of recontracting with PharmAlliance

4 in November of 2001?

5 MR. STEWART: Objection. That

6 question now has been asked and answered quite

7 clearly twice. I'll permit this -- I'll permit

8 this third time, and then I will not permit

9 anything -- I will not permit any further

10 questions on that subject.

11 A. We were satisfying the relationship that we had

12 with clients of PharmAlliance. In my opinion,

13 there is no -- clients have no ownership or

14 nobody owns clients, and the only problem that

15 she had was that she didn't want to lose her

16 product. She had the free sales certificate of

17 Belmazol and an agreement -- a production

18 agreement signed with Laboratorios Belmac, which

19 is Exhibit Number 9, and what Belmac does is to

20 continue and begin to supplying her so she would

21 not lose her product, but at no point there was

22 a specific plan to make this happen.

23 Q. Let me show you another document.

24 A. And that's according to my knowledge because I

1 A. Yes.

2 Q. And she tells you that she has received a

3 message from someone at Ethypharm, correct,

4 correct?

5 A. Yes, from Mr. Lacombe.

6 Q. And he had indicated that Belmac is using

7 Ethypharm know-how and Ethypharm machinery to

8 manufacture omeprazole, correct?

9 A. Correct.

10 Q. And what does she indicate to you?

11 A. She relayed to me this incident.

12 Q. And she says that she denied that PharmAlliance

13 is buying omeprazole from Belmac, correct?

14 THE WITNESS: Si.

15 Q. Is that true or not true?

16 MR. STEWART: Objection. Is what

17 true?

18 Q. Was PharmAlliance buying omeprazole from Belmac

19 in July 18th, 2002?

20 A. With Ethypharm Labs, Miss Lamari did not have

21 just one product. Otherwise -- it was the

22 majority of her products at that time were

23 Ethypharm. At no time I asked her to deny that

24 she was purchasing from Belmac Laboratories.

37 (Pages 142 to 145)

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1 Most likely, she was defending herself so she  
2 would not have problems with her other products.  
3 Q. That's not my question. Is this statement true  
4 or is it a lie?

5 MR. STEWART: Objection to the form.

6 Q. Was PharmAlliance buying its omeprazole from  
7 Belmac as of July 18th, 2002?

8 A. I think so.

9 Q. So Ms. Lamari -- Ms. Lamari is telling you in  
10 this e-mail that she has lied to Ethypharm,  
11 correct?

12 MR. STEWART: Objection, no  
13 foundation.

14 A. You know, the text says what it says.

15 Q. Isn't it true that Ms. Lamari is telling you in  
16 this e-mail that she has lied to Ethypharm?

17 MR. STEWART: Objection. How is this  
18 witness possibly to know what intent or lack of  
19 intent was in the mind of Miss Lamari?

20 MR. BOSTWICK: I don't think that has  
21 anything to do with my question.

22 Q. Do you want to have the question reread?

23 A. No. You know, to be able to say yes to or --  
24 respond yes to your question, I will have to

1 (Side Letter to the Agreement was marked  
2 Exhibit Number 20 for identification.)

3 Q. Do you recognize this document?

4 A. Yes.

5 Q. What do you recognize this document to be?

6 A. This document is just as the document reads.

7 It's a side letter to the agreement between  
8 Leciva A.S. and Uquifa S.A.

9 Q. Did you participate in discussions with Leciva  
10 or Uquifa about this document?

11 A. Yes.

12 Q. Who did you speak with, Jan Sotola?

13 THE WITNESS: With Jan Sotola, with  
14 Juan Venceslao.

15 Q. How do you spell the last name?

16 A. I conversed with Jan Sotola and with Juan  
17 Venceslao, and Venceslao is spelled  
18 V E N C E S L A O.

19 Q. Tell me about those -- when did those  
20 conversations occur?

21 A. Based on this date, it must have been towards  
22 the end of 2002.

23 Q. Tell me what you recall about those  
24 conversations.

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1 know when was the first supply from Belmac to  
2 PharmAlliance. You know, if it was a fact that  
3 she had already purchased from Belmac, we then  
4 could say that in this communication she was  
5 telling me that she told a lie.

6 Q. Did you call Ethypharm to let them know that  
7 PharmAlliance was buying omeprazole from Belmac?

8 A. No.

9 Q. Did you tell Ethypharm that Belmac was in the  
10 process of entering into supply agreements with  
11 PharmAlliance in late 2001 or 2002?

12 A. I did not have any meetings with the people from  
13 Ethypharm. So for that reason, I cannot answer  
14 anything relating to this or anything else.

15 Q. Okay. I show you another document.

16 MR. STEWART: I'm going to want to  
17 take a break in a couple minutes.

18 MR. BOSTWICK: I'm going to want to  
19 try to finish by 5 here.

20 MR. STEWART: Well, that's an  
21 incentive. I'm not sure if I can do it, but I  
22 think. I just need a break in place to get a  
23 glass of water. Anybody else want anything?  
24 Okay.

1 A. Leciva Labs in Czechia or Czech --

2 MR. BOSTWICK: Czechoslovakia.

3 THE TRANSLATOR: Czechoslovakia.

4 A. -- had received a letter from Ethypharm Labs in  
5 which Ethypharm terminates the negotiations --

6 THE WITNESS: Breaks.

7 A. -- breaks the negotiation. I'll start again.

8 Leciva communicates that Ethypharm had  
9 communicated with them the break of the contract  
10 of supply and license that they had with them.

11 Ethypharm had arrived to some agreement in which  
12 they couldn't supply to the Czechoslovakian  
13 territory. For this reason, they get into a  
14 supply agreement with Uquifa. Uquifa supplies  
15 the documentation of the product manufactured in  
16 Turkey, the one that it was not a European  
17 product, and they requested from us the  
18 documentation from our product -- all the  
19 documentation from our product corresponding to  
20 the aqueous formulation.

21 Q. Was this document, Exhibit 20, signed?

22 A. No.

23 Q. Why not?

24 A. It wasn't signed because we didn't want to go

38 (Pages 146 to 149)

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1 through the agreement between Leciva and Uquifa  
 2 that they previously had. We offered an  
 3 agreement, a license agreement with the  
 4 exclusive supplying of -- from Uquifa, with the  
 5 exclusiveness of the active ingredient of  
 6 Uquifa.  
 7 Q. So ultimately you signed an agreement with  
 8 Uquifa, Laboratorios Belmac?  
 9 A. No. The client kept the Turkish manufacturing.  
 10 We have never done business with Leciva.  
 11 Q. How about with Uquifa?  
 12 A. Yes, with Uquifa, we have done business with.  
 13 Q. Has -- since 2001, has Laboratorios Belmac sold  
 14 or manufactured omeprazole for Uquifa?  
 15 A. Yes.  
 16 Q. Beginning when?  
 17 A. Estimating that it was 2001, but I don't  
 18 remember.  
 19 THE TRANSLATOR: Excuse me. 2002.  
 20 Q. Who was the contact person at Uquifa that you  
 21 dealt with?  
 22 A. Juan Venceslao.  
 23 Q. You were working at Laboratorios Belmac when --  
 24 in approximately 2003 when a judge and an expert

1 no. You know, I do not receive any document or  
 2 information in terms of this type of events.  
 3 Q. Was -- do you know whether or not any  
 4 information from that event was reported to  
 5 Bentley Pharmaceuticals in the U.S.?  
 6 A. I don't know.  
 7 Q. Since you have been at -- let me strike that. I  
 8 just have a few more questions, and they all  
 9 relate to your job at Laboratorios Belmac. Did  
 10 you -- what was your formal title after  
 11 April 1st, 2002?  
 12 A. Business development.  
 13 Q. Could you describe your duties in that position?  
 14 A. In the search of business.  
 15 Q. Did -- who do you report to in that job?  
 16 A. To Mr. Herrera.  
 17 Q. Do you have contact with anyone in the United  
 18 States at Bentley?  
 19 A. No, never. You know, one fact was that there  
 20 was a business development vice president, and I  
 21 never got to meet him.  
 22 Q. I didn't understand that last question.  
 23 MR. STEWART: Can we have the question  
 24 back and the answer, please?

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1 went to the Zaragoza plant with Ethypharm  
 2 employees?  
 3 A. Yes.  
 4 Q. What do you recall about that event?  
 5 A. I didn't participate at this event.  
 6 Q. You were not there?  
 7 A. During 2003, I was already working for the  
 8 agents -- I was working or researching for  
 9 traders or agents for Belmac in Europe. So I  
 10 was not much at the office.  
 11 Q. Did Mr. Herrera tell you about what happened at  
 12 that incident?  
 13 MR. STEWART: Objection, relevance and  
 14 specifically relevance to any issue regarding  
 15 agency. You may answer.  
 16 A. If Mr. Herrera informed me?  
 17 Q. Yes.  
 18 A. Vaguely, but he did say to me that they had  
 19 visited Zaragoza's plant and that Antonio  
 20 Cabodevilla had taken care of the entire subject  
 21 matter.  
 22 Q. Did you receive any formal report of that event?  
 23 MR. STEWART: Objection, relevancy.  
 24 A. That I remember, no. I'll say no, 99 percent

1 MR. BOSTWICK: Sure.  
 2 (Reporter read back the last question  
 3 and answer.)  
 4 Q. I didn't understand the last part of the answer.  
 5 What are you referring to when you say that  
 6 there was a business development vice president  
 7 that you never got to meet him or -- never got  
 8 to meet?  
 9 A. I have never had any contact with Bentley  
 10 Pharmaceuticals in the United States, and there  
 11 was a position in the United States that we  
 12 never got to know because we have never had any  
 13 contact with, you know, the people in the United  
 14 States because there's never been common  
 15 business among us.  
 16 Q. Have you ever received Bentley stock or Bentley  
 17 options for shares?  
 18 A. Yes.  
 19 Q. Approximately when and how much?  
 20 A. I believe it was two years ago for the first  
 21 time I received, and I received 5,000.  
 22 Q. 5,000 shares of stock at Bentley or...  
 23 MR. STEWART: Objection.  
 24 A. Stock options, 5,000 stock options.

39 (Pages 150 to 153)

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1 Q. My mistake. And did your salary change in April  
2 of 2002 from the 2,000 euros per month?

3 A. Yes.

4 Q. What did it change to?

5 A. It changed to 800 million pesetas -- 8 million  
6 pesetas, which is 48 euros, taxes included, so  
7 is -- so it's net salary --

8 THE TRANSLATOR: Not net. What's the  
9 other?

10 MR. STEWART: Gross.

11 A. -- gross salary.

12 MR. STEWART: The Spanish words that I  
13 learned.

14 Q. 48,000 euros, is that what you said?

15 A. Yes.

16 MR. BOSTWICK: Those are all the  
17 questions I have.

18 THE WITNESS: Thank you.

19 MR. STEWART: Let's take about five  
20 minutes.

21 THE VIDEOGRAPHER: The time is  
22 5:08 p.m. Going off the record.

23 (Recess)

24 THE VIDEOGRAPHER: The time is

1 between Belmac and PharmAlliance; is that  
2 correct?

3 A. Yes.

4 Q. To your knowledge, did Mr. Herrera seek approval  
5 from anyone at Bentley before he signed the  
6 confidentiality agreement with PharmAlliance?

7 A. As far as I know, no.

8 Q. Did he ever tell you that he would need the  
9 approval of Jim Murphy before he entered into  
10 such an agreement?

11 A. No.

12 Q. If you would look at Exhibit 17, please. And  
13 please refer to the document that is attached to  
14 the letter dated 6th, December of 2001.

15 A. Uh-huh.

16 Q. By the uh-huh, you mean yes, you've seen it?

17 A. Yes.

18 Q. Now, you told Mr. Bostwick that you believe that  
19 a supply, marketing, and distribution agreement  
20 was signed between Belmac and PharmAlliance at  
21 some point; is that correct?

22 A. Yes.

23 Q. You're not certain whether it was exactly the  
24 same as the document that is part of Exhibit 17?

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1 5:19 p.m. We're back on the record.

2 EXAMINATION BY MR. STEWART:

3 Q. Good afternoon, Mr. Alvarez.

4 A. Good afternoon.

5 Q. As you know, my name is Craig Stewart, and I  
6 represent Bentley Pharmaceuticals in this case.  
7 It's been a long day. We started at 8:30 in the  
8 morning, and I only have just a few questions.

9 First, I want to thank you for your  
10 time and patience this afternoon, and I know  
11 Mr. Bostwick appreciates that as well.

12 Would you look at Exhibit 16, please?  
13 And Exhibit 16 is the confidentiality agreement  
14 between Belmac and PharmAlliance; is that  
15 correct?

16 A. Yes.

17 Q. And do you know when this agreement was signed?

18 A. I do not know, but it was signed on  
19 November 14th, 2001.

20 Q. Okay. And you were working as a consultant to  
21 Belmac at this time; is that right?

22 A. Yes.

23 Q. And you had a meeting with Mr. Herrera and  
24 Ms. Amal Lamari with respect to a relationship

1 A. No, I believe this was a draft of some sort, you  
2 know, that generated the one that was finalized.

3 Q. Was a draft of the contract which is part of  
4 Exhibit 17 ever sent to Jim Murphy at Bentley  
5 for his approval?

6 MR. BOSTWICK: To his knowledge?

7 Q. To your knowledge.

8 A. As far as I'm aware, no.

9 Q. To your knowledge, did Mr. Herrera ever seek the  
10 permission of Jim Murphy or anyone else at  
11 Bentley before the agreement was finalized?

12 A. No.

13 Q. Turn, please, to Exhibit 20. Exhibit 20 is the  
14 side letter to the agreement between Leciva and  
15 Uquifa; is that correct?

16 A. Yes, that's how the heading -- it states on the  
17 heading.

18 Q. And the draft was to be signed by Leciva and  
19 Laboratorios Belmac S.A., correct?

20 A. Yes.

21 Q. This document was never signed by either party,  
22 correct?

23 A. No.

24 Q. No, it was not signed?

40 (Pages 154 to 157)

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1 A. No, it was not signed.  
 2 Q. Was -- to your knowledge, was Exhibit 20 ever  
 3 sent to Bentley -- Bentley Pharmaceuticals for  
 4 discussion?  
 5 A. As far as I'm aware, it was never sent to  
 6 Bentley.  
 7 Q. Do you know or can you tell us whether --  
 8 withdraw that. Did Adolfo Herrera ever speak to  
 9 Jim Murphy with respect to the proposed side  
 10 letter between Leciva and Uquifa?  
 11 A. No, I don't think so. For sure, no.  
 12 Q. Why do you believe that is so?  
 13 A. Because Mr. Herrera is a person that he works  
 14 independently. Since I have known him and up to  
 15 this date, he has never depend on anyone. From  
 16 the day that he was director general adjunto of  
 17 Mr. Gonzalez --  
 18 Q. Deputy general manager?  
 19 A. -- yes -- up to today, and up to this date that  
 20 I have known him, he always did his own  
 21 decisions -- makes his own decisions by himself.  
 22 Q. Refer, please, to Exhibit 13 and Exhibit 14.  
 23 You told Mr. Bostwick that you had involvement  
 24 in the preparation of Exhibits 13 and 14 along

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1 Q. Do you have any reason to -- withdraw that. Did  
 2 Mr. Herrera to your knowledge involve Jim Murphy  
 3 or anyone else at Bentley with respect to the  
 4 negotiations over the contracts with Mr. De  
 5 Basilio and yourself?  
 6 A. As far as I know, no.  
 7 Q. Did Mr. De Basilio -- withdraw that. Mr. De  
 8 Basilio was a distant relative of yours; is that  
 9 right?  
 10 A. Yes.  
 11 Q. And you had worked with Mr. De Basilio since  
 12 1992, correct?  
 13 A. Correct.  
 14 Q. At any time, did Mr. De Basilio ever tell you  
 15 that Laboratorios Belmac had the authority to  
 16 act for Bentley Pharmaceuticals, Incorporated?  
 17 A. No.  
 18 Q. And you're aware that Bentley Pharmaceuticals in  
 19 the first several -- prior to 1996, in that  
 20 area, was known as Belmac Corporation? Are you  
 21 aware of that?  
 22 A. Yes.  
 23 Q. Did Mr. De Basilio ever tell you that  
 24 Laboratorios Belmac had the authority to act for

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1 with Adolfo de Basilio; is that correct?  
 2 A. Correct.  
 3 Q. And Exhibit 13 is the manufacturing agreement  
 4 dated March 23, 2000, correct?  
 5 THE TRANSLATOR: 2000, Counsel?  
 6 MR. STEWART: 2000.  
 7 A. Yes.  
 8 Q. And Exhibit 14 is the purchase agreement dated  
 9 March 23, 2000; is that correct?  
 10 A. Yes.  
 11 Q. And who are these agreements between?  
 12 A. Between Belmac Labs and Ethypharm Labs.  
 13 Q. Now, you told Mr. Bostwick about a meeting that  
 14 you attended before these two documents were  
 15 signed. Do you recall that?  
 16 A. Yes.  
 17 Q. And at that meeting, Mr. Herrera was present,  
 18 correct?  
 19 A. Yes.  
 20 Q. At that meeting, did Mr. Herrera, to your  
 21 knowledge, take a break from the meeting and the  
 22 discussions so that he could make a telephone  
 23 call?  
 24 A. That I remember, no.

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1 Belmac Corporation of the United States?  
 2 A. No.  
 3 Q. Did Mr. De Basilio ever tell you that when --  
 4 that a contract signed on behalf of Laboratorios  
 5 Belmac would also bind Bentley Pharmaceuticals,  
 6 Incorporated?  
 7 A. No.  
 8 Q. Look at Exhibit 13. In or around March of 2000,  
 9 did you see the signed copy of this document, of  
 10 Exhibit 13?  
 11 A. Yes.  
 12 Q. And who is it signed by?  
 13 A. Adolfo Herrera and Adolfo de Basilio.  
 14 Q. Who did Adolfo de Basilio -- I'm sorry. Who did  
 15 Adolfo de Basilio sign the contract for?  
 16 A. On behalf of Ethypharm Labs Spain.  
 17 Q. And who did Adolfo Herrera sign the contract  
 18 for?  
 19 A. For Laboratorios Belmac S.A.  
 20 Q. And in March of 2000, did you believe that  
 21 Adolfo Herrera was also signing for Bentley  
 22 Pharmaceuticals, Incorporated?  
 23 A. No.  
 24 MR. STEWART: That's all I have.

41 (Pages 158 to 161)

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1 RE-EXAMINATION BY MR. BOSTWICK:

2 Q. Mr. Alvarez, I have an opportunity to ask a few  
3 more questions based on Mr. Stewart's questions.  
4 I promise to keep it very short.

5 A. That's why I was laughing because I thought that  
6 you had and I had finished.

7 Q. We're almost finished because I have to catch my  
8 plane, but you said that Mr. Murphy has --  
9 makes -- I'm sorry. Strike that.

10 You said that Mr. Herrera makes  
11 independent decisions as far as you understand?

12 A. Correct.

13 Q. Does Mr. Murphy have a boss -- I'm sorry. Does  
14 Mr. Herrera have a boss?

15 A. At Belmac Labs, yes.

16 Q. Who is that?

17 A. The president of the company.

18 Q. And who is that?

19 A. Mr. Murphy.

20 Q. And Mr. Murphy is also the head of Bentley  
21 U.S.A.; is that correct?

22 A. As I understand, he's the president in the  
23 U.S.A.

24 Q. Do you know how often Mr. Herrera speaks to

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1 have. And thank you very much. I acknowledge  
2 and join in Mr. Stewart's comments. Thank you  
3 for putting up with us today.

4 MR. STEWART: And I join in my own  
5 comments and in his comments. Thank you very  
6 much.

7 THE VIDEOGRAPHER: The time is  
8 5:41 p.m. on July 27th, 2006. This is the end  
9 of Tape Number 4, and this completes the  
10 videotaped deposition of Mr. Ignacio Alvarez.  
11 (Deposition concluded at 5:41 p.m.)

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1 Mr. Murphy?

2 MR. STEWART: At what time?

3 Q. Let's say while you were at Ethypharm, did you  
4 understand how often Mr. Herrera spoke with  
5 Mr. Murphy?

6 A. I have no idea.

7 Q. Since you have been at Laboratorios Belmac, do  
8 you know how often Mr. Herrera speaks to  
9 Mr. Murphy?

10 A. From time to time, I have listened or heard.

11 Q. Do you know how often that takes place?

12 A. You know, maybe once a week, maybe every fifteen  
13 days, you know, approximately.

14 Q. Were you aware that Mr. Herrera in addition to  
15 his position at Laboratorios Belmac also is an  
16 officer of Bentley?

17 MR. STEWART: Objection, assumes facts  
18 not in evidence.

19 A. What do you mean by an officer?

20 Q. A vice president of Bentley?

21 A. Yes, I am aware of it.

22 Q. When did you become aware of that?

23 A. About a year ago approximately.

24 MR. BOSTWICK: Okay. That's all I

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# 1 CERTIFICATE

2 I, IGNACIO ALVAREZ, do hereby certify that I  
3 have read the foregoing transcript of my  
4 testimony, given on July 27, 2006, and I further  
5 certify that said transcript is a true and  
6 accurate record of said testimony (with the  
7 exception of the corrections listed below):

8 Page Line Correction

17 Dated at , this  
18 day of , 2006.

19 IGNACIO ALVAREZ

20 SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

21 slb  
22  
23  
24

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CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS  
SUFFOLK, SS

I, Sandra L. Bray, Registered Diplomate  
Reporter and Notary Public in and for the  
Commonwealth of Massachusetts, do hereby  
certify:

That IGNACIO ALVAREZ, the witness whose  
deposition is hereinbefore set forth, was duly  
sworn by me and that such deposition is a true  
record of my stenotype notes taken in the  
foregoing matter, to the best of my knowledge,  
skill and ability.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 10th day of August, 2006.

---

Sandra L. Bray, RDR  
Registered Diplomate Reporter

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2 VOLUME I

3 PAGES 1 - 26

4 EXHIBITS: 1

5

6 IN THE UNITED STATES DISTRICT COURT FOR THE

7 DISTRICT OF DELAWARE

8 C.A. NO. 04-1300-SLR

9

ETHYPHARM S.A. FRANCE and )

10 ETHYPHARM S.A. SPAIN, )

Plaintiffs, )

11 )

vs. )

12 )

BENTLEY PHARMACEUTICALS, )

13 INC., )

Defendant. )

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14

15

16 DEPOSITION OF ANGEL PEREZ DE AYALA,

17 taken on behalf of the Plaintiffs, pursuant

18 to the Delaware Rules of Civil Procedure

19 before Tina M. Sarcia, Registered

20 Professional Reporter and Notary Public

21 within and for the Commonwealth of

22 Massachusetts, at the law offices of Edwards,

23 Angell, Palmer & Dodge, 111 Huntington

24 Avenue, Boston, Massachusetts, on Wednesday,

June 28, 2006, commencing at 4:10 p.m.

<p style="text-align: right;">Page 2</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 APPEARANCES</p> <p>3 Dwight P. Bostwick, Esquire</p> <p>4 Jonathan D. Fine, Esquire</p> <p>5 BAACH, ROBINSON &amp; LEWIS</p> <p>6 1201 F Street, NW, suite 500</p> <p>7 Washington, DC 20004</p> <p>8 202.659.6744</p> <p>9 dwight.bostwick@baachrobinson.com</p> <p>10 For the Plaintiffs</p> <p>11</p> <p>12 Joseph Mingolla, Esquire</p> <p>13 Veronica C. Abreu, Esquire</p> <p>14 EDWARDS, ANGELL, PALMER &amp; DODGE, LLP</p> <p>15 111 Huntington Avenue</p> <p>16 Boston, Massachusetts 02199</p> <p>17 617.239.0577</p> <p>18 jmingolla@capdlaw.com</p> <p>19 For the Defendant</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 THE VIDEOGRAPHER: This is tape</p> <p>3 number one of the videotape deposition</p> <p>4 Mr. Angel Perez De Ayala taken by the</p> <p>5 plaintiffs in the matter of Ethypharm SA</p> <p>6 France and Ethypharm SA Spain, plaintiff,</p> <p>7 versus Bentley Pharmaceuticals, Inc.,</p> <p>8 defendant in the United States District Court</p> <p>9 for the district of Delaware, case number</p> <p>10 041300SOR.</p> <p>11 This deposition is being held on</p> <p>12 June 28, 2006 at approximately 4:12 p.m. My</p> <p>13 name is Kristin Zarnetske. I'm a legal</p> <p>14 videographer representing Esquire</p> <p>15 Depositions. The court reporter also in</p> <p>16 association with Esquire is Tina Sarcia.</p> <p>17 This deposition is being held at the law firm</p> <p>18 of Edwards and Angell at 111 Huntington</p> <p>19 Street, Boston, Massachusetts.</p> <p>20 Will counsel present, please,</p> <p>21 introduce themselves for the record.</p> <p>22 MR. BOSTWICK: Dwight Bostwick and</p> <p>23 Jonathan Fine on behalf of Ethypharm.</p> <p>24 MS. ABREU: Veronica Abreu and</p>
<p style="text-align: right;">Page 3</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 APPEARANCES</p> <p>3 Rafael Garcia-Palencia, Esquire</p> <p>4 Rebeca Corral Gregorio, Esquire</p> <p>5 ALZAGA, G. PALENCIA, G. DE MERCADO &amp;</p> <p>6 ASOCIADOS</p> <p>7 28014 Madrid</p> <p>8 C/. Marques de Cubas, 6, 2 Dcha</p> <p>9 91 360 51 83</p> <p>10 rgarciapalencia@iberforno.net</p> <p>11 For the Defendant</p> <p>12</p> <p>13 THE INTERPRETER: Ivelissa Escalera</p> <p>14 THE VIDEOGRAPHER: Kristin Zarnetske</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 5</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 Joseph Mingolla on behalf of Bentley.</p> <p>3 THE VIDEOGRAPHER: Will the court</p> <p>4 reporter, please, swear in the interpreter</p> <p>5 and the witness.</p> <p>6 (Interpreter sworn)</p> <p>7 ANGEL PEREZ DE AYALA, a witness</p> <p>8 called by counsel for the PLAINTIFFS, having</p> <p>9 been satisfactorily identified and duly sworn</p> <p>10 by the Notary Public, was examined and</p> <p>11 testified as follows:</p> <p>12 *****</p> <p>13 EXAMINATION BY MR. BOSTWICK</p> <p>14 Q. Good afternoon, Mr. Ayala. I am Dwight</p> <p>15 Bostwick, and I represent Ethypharm in this</p> <p>16 action, and am I correct that you have never</p> <p>17 had a deposition taken before?</p> <p>18 A. What is a deposition?</p> <p>19 Q. The type of -- have you ever had your</p> <p>20 testimony taken for a lawsuit in the U.S.?</p> <p>21 A. No.</p> <p>22 Q. Permit me to explain a few things for your</p> <p>23 benefit.</p> <p>24 A. Okay.</p>

2 (Pages 2 to 5)

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2 Q. My colleague Jonathan Fine and I represent

3 Ethypharm in a matter that has been brought

4 in the United States courts.

5 A. Okay.

6 Q. And there are two lawyers here from Bentley

7 who I assume you have met.

8 A. Yes.

9 Q. And we also have two lawyers from

10 Laboratorios Belmac in Spain who I assume you

11 have met as well.

12 A. Yes.

13 Q. And we have a court reporter here whose job

14 it is to take down the questions and the

15 answers today, and for each question and

16 answer you will have to actually say yes or

17 no or answer the question rather than simply

18 nod.

19 And as you see, we have a translator

20 here for your benefit as well, so we will ask

21 a question, and the translator will

22 translate, and then you will have time to

23 answer in Spanish.

24 A. Perfect.

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2 Q. And if you have any questions at all about

3 the question I ask, please, simply ask me.

4 A. Thank you.

5 Q. In addition, I plan to take breaks every once

6 in a while; but if you need a break, simply

7 tell me and we'll stop.

8 A. Okay.

9 Q. It's not an endurance test. Do you have any

10 questions for me before we begin?

11 A. No.

12 Q. I anticipate that we will only go for about

13 an hour tonight, and then we will begin again

14 in the morning.

15 A. Okay. I'm in agreement.

16 Q. Mr. Ayala, could you state your name in full.

17 A. Angel Perez De Ayala Mayoral.

18 Q. Could you spell the last name for the record.

19 A. P-E-R-E-Z D-E A-Y-A-L-A M-A-Y-O-R-A-L.

20 Q. Mr. Ayala, where do you currently live?

21 A. At the moment in Madrid, Spain.

22 Q. Do you currently work?

23 A. Yes.

24 Q. Where do you work?

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2 A. Pharmaceutical Laboratory.

3 Q. Is that the name of the corporation?

4 A. No. The name is Grapa Laboratories.

5 Q. And what is your position at Laboratorios

6 Grapa? Could you describe --

7 A. Is a person that represents the

8 administrative group and is active on behalf

9 of the group.

10 Q. Is that the top position in the company?

11 A. Executive, yes.

12 Q. How long have you been working at

13 Laboratorios Grapa?

14 A. I found them in the year 1996, was the

15 founder.

16 Q. And I understand you worked previously for a

17 company named Rimafar; is that correct?

18 A. Yes, correct.

19 Q. And was the name of Rimafar later changed?

20 A. Yes.

21 Q. What was it changed to?

22 MS. ABREU: Objection. Foundation.

23 Dates.

24 A. The name was kept, but the actual -- was

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2 changed to Belmac, Belmac Laboratories Spain.

3 Q. When did you work for Rimafar and

4 Laboratorios Belmac?

5 A. Rimafar since its beginnings because I found

6 it, and Belmac when Rimafar was sold to

7 Belmac Corporation.

8 Q. When was Rimafar founded?

9 A. Approximately March 1998.

10 Q. And when was Rimafar sold to Belmac

11 Corporation?

12 A. Excuse me. There's a change in terms of

13 dates. I believe Rimafar was founded after

14 the summer like in September of 1998 and

15 Rimafar was sold to Belmac, and I believe it

16 was March of 1992.

17 Q. Let me first focus on Rimafar. You founded

18 the company Rimafar?

19 A. Not exactly. I began to organize it from its

20 very beginning. I did not -- as a

21 corporation, I was under contract by Rimafar

22 to organize the corporation, but in terms of

23 its foundations, I was not officially on it.

24 Q. Who was on the official founding documents

3 (Pages 6 to 9)